

Exhibit No. 5

DAPHNE E. BARBEE 2911

Attorney at Law
Century Square, Suite 1909
1188 Bishop Street
Honolulu, Hawaii 96813
Telephone: (808) 533-0275

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

RAYMOND WARE,)	CIVIL NO. 04-00671 HG/LEK
)	
Plaintiff,)	PLAINTIFF'S FOURTH REQUEST
)	FOR PRODUCTION OF DOCUMENTS
vs.)	TO DEFENDANTS
)	
SIDNEY HAYAKAWA, Director of)	
Transportation Security Administration -)	
Honolulu, KEN KAMAHELE, Deputy)	
Director, Transportation Security)	
Administration-Honolulu;)	
TRANSPORTATION SECURITY)	
ADMINISTRATION; THOMAS J. RIDGE,)	
Secretary, Department of Homeland Security,)	
DEPARTMENT OF HOMELAND)	
SECURITY; LOCKHEED-MARTIN;)	
JOHN DOES 2-5,)	
)	
Defendants.)	
)	

**PLAINTIFF'S FOURTH REQUEST FOR
PRODUCTION OF DOCUMENTS TO DEFENDANTS**

TO: EDWARD H. KUBO, JR., ESQ.
U.S. Attorney
THOMAS HELPER, ESQ.
Assistant U.S. Attorney
Room 6-100, PJKK Federal Building
300 Ala Moana Blvd.
Honolulu, Hawaii 96850

Attorneys for Defendants

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff RAYMOND WARE ("Plaintiff"), by and through his attorney, Daphne E. Barbee, hereby submits his Fourth Request for Production of Documents to Defendants ("Defendants").

PLEASE TAKE NOTICE that Plaintiff hereby requests that Defendants produce for examination, inspection and copying all of the following documents or items which are in their possession and that one (1) copy of the documents must be served upon the undersigned within thirty (30) days after receipt of this request for documents pursuant to Rule 34 of the Federal Rules of Civil Procedure.

THIS REQUEST FOR PRODUCTION OF DOCUMENTS shall be deemed continuing so as to require supplemental answers if you or your attorney or your agents obtain further information between the time these answers are served and the time of trial.

DEFINITIONS

The following definitions apply to the Request for Production of Documents enumerated below and are hereby incorporated therein:

1. "You" and "Your" refer to Defendants, their agents, employees, attorneys, and other persons acting or purporting to act on their behalf.
2. "Writing" means any tangible thing upon which is recorded any form of communication or representation, including letters, words, pictures, sounds, or symbols, or any combination thereof, by means of handwriting, typewriting, printing, photocopy in, photographing, sound recording, or any other method of recording. This definition includes, but is not limited to, records, reports, papers, documents, photographs, books, letters, notes, memoranda, statements, tape recordings, phonograph recordings, and microfilm, whether in your

possession or under your control or not, relating to or pertaining in any way to the subject in connection with which it is used; and includes, without limitation, all file copies and drafts prepared with such writing whether used or not.

3. The term "document(s)" means and includes any and all:

- a. Tangible things or items, whether handwritten, typed, printed, tape recorded, electronically recorded, videotaped, visually reproduced, stenographically reproduced or reproduced in any other manner;
- b. Originals and all copies of any and all communications;
- c. Writings of any kind or type whatsoever;
- d. Books and pamphlets;
- e. Microtape, microfilm, photographs, movies, recordings, tape recordings, and videotapes, stenographically or otherwise reproduced;
- f. Diaries and appointment books;
- g. Cables, wires, memoranda, reports, notes, minutes and interoffice communications;
- h. Letters and correspondence;
- i. Contracts and agreements;
- j. Other legal instruments or official documents;
- k. Financial statements, accounting records, worksheets, reports, schedules, ledgers, books, records and journals;
- l. Investigation or incident reports;
- m. Files and records;

n. Notes or summaries of conferences, meetings, discussions, interviews or telephone conversations or messages;

o. Drafts or draft copies of any of the above.

INSTRUCTIONS

The following instructions are to be considered applicable to all demands for production of documents and things contained herein;

1. In producing these documents, you are to furnish all documents known or available to you regardless of whether these documents are possessed directly by you or your agents, employees, representatives, investigators, or by your attorneys or their agents, employees, representatives or investigators.

2. If any of these documents cannot be produced in full, produce to the extent possible, specifying your response for your inability to produce the remainder and stating whatever information, knowledge or belief you do have concerning the unproduced portion.

3. If any document covered by this Request is withheld by reason of a claim of privilege, a list is to be furnished at the time that documents are produced, identifying any such documents for which the privilege is claimed together with the following information with respect to any such document withheld:

- a. date;
- b. writer/drafter (of applicable, including "to file");
- c. recipient;
- d. any person to whom copies were furnished and the identity of any such person;


- e. general subject matter;
- f. the paragraph of this Request to which such document relates.

4. If any of the documents requested were at one time in existence, but are no longer in existence, please so state, specifying for each document or thing:

- a. the type of document or thing;
- b. the types of information contained thereon;
- c. the date upon which it ceased to exist;
- d. the circumstances under which it ceased to exist;
- e. the identity of all persons having knowledge of the circumstances under which it ceased to exist;
- f. the identity of all persons having knowledge or who had knowledge of the contents thereof.

This request is a continuing one. If, after producing documents, you obtain or become aware of any further documents responsive to this Request, you are required to produce to Plaintiff such additional documents.

DATED: Honolulu, Hawaii, 3-21-06.



DAPHNE E. BARBEE
Attorney for Plaintiff

REQUESTED DOCUMENTS

1. Copy of TSA Management Directive No. 1900.4, FY03-04 Annual Proficiency Review.
2. Proof that the testers for Module 3 of this certification test were properly certified.
3. Any studies and/or verification that Module 3 of the certification test administered to Plaintiff was validated and a proper test for the position in question and consistent with business necessity.
4. Copy of the personnel records for all federal employees at TSA Honolulu who were granted promotions to Screening Manager from January 2003 through October 2003.
5. The promotion increase decision tools for each person for all persons who were considered for the promotion to Screening Manager from the year 2003, TSA Honolulu.
6. A copy of the promotion increase decision tool for Plaintiff.